



Luxembourg: Overview on the situation of lesbian, bisexual and queer women and recommendations to end violence, discrimination and invisibility

A parallel report submitted for the 69th Session of the Committee on the Elimination of Discrimination against Women (review of the combined 6th and 7th periodic reports of Luxembourg)

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The association **Rosa Lëtzebuerg asbl**¹ promotes the civil rights of LGBTI citizens, fights against discrimination on grounds of sexual orientation and gender identity, and organises socio-cultural events for the LGBTI community.

The **Pink Ladies** is the **women's group of Rosa Lëtzebuerg asbl** and organises a variety of activities for cis- and transgender women who love women and women identifying as lesbian, bisexual and queer (LBQ). The women's meet ups started back in 2010 with the goal to create a space for lesbian, bisexual, queer, questioning and women who love women by promoting collective and individual empowerment.

The **Gay and Lesbian Information Centre – CIGALE**² is the professional office of Rosa Lëtzebuerg and offers advice and support to every person having questions related to sexual orientation, trans* identities, coming-out and gender identity. CIGALE has an **agreement with the Ministry of Family, Integration and the Greater Region**³, which is our Home Ministry. Actually CIGALE employs permanent staff on a full-time basis (two people).

¹ <http://www.gay.lu/>

² <http://www.cigale.lu/>

³ <http://www.annuaire.public.lu/index.php?idMin=161>

Executive Summary

The present report provides an analysis of the situation of lesbian, bisexual and queer (hereinafter – LBQ) women in Luxembourg.

The report consists of three parts:

- (1) our comments, questions and recommendations regarding the report submitted to the CEDAW Committee by the Government of Luxembourg;
- (2) our comments related to the ratification of the Istanbul Convention; and
- (3) our comments on other issues not covered by the State party’s report, namely:
 - (a) the lack of statistics on the situation of LGBTIQ persons;
 - (b) the exclusion of LGBTIQ persons from governmental policies and action plans;
 - (c) discrimination of female same-sex couples with regard to the filiation after medically assisted procreation; and
 - (d) the lack of procedure for legal gender recognition.

At the end of our report we suggest a list of recommendations, including policy and legislative measures, that would help to improve the situation of LGBTIQ persons in Luxembourg.

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I. Comments, questions and recommendations regarding the report submitted by the Government of Luxembourg⁴

- **in general: There is no mention of LBQ women in the report of the Government of Luxembourg, apart from the only mention of their “diversity policy” for the respect of “religious conviction, sexual orientation, age, nationality, etc.”**

- p. 3-4: A research⁵ on the situation of Luxembourgish women has been mandated in 2016 by the Ministry of Equal Opportunities (MEGA) in cooperation with the national institute for statistics (STATEC). Has the situation of LGB women been evaluated? Has the situation of LGB women been evaluated at the intersection of other discrimination grounds?

- p. 14: The National Action Plan for the Equality between men and women (2015-2018)⁶ does not include a specific mention, nor specific actions towards LBQ women.

- p. 19-20: The Ministry for Equal Opportunities is active member in various interministerial working groups (disability, youth, sustainable development, sex education, etc.). An interministerial group for LGBTI issues exists since 2015 and we recommend the Ministry of Equal Opportunities joins this group.

- p. 26-33: The section about “Violence towards women” has a main focus on domestic violence. This is legitimate, nonetheless, we consider that violence happening in the family sphere or the intimate sphere should also take into account the violence experienced by women and girls who are in threat of violence, sexual violence, rape and murder when living in families that do not accept their sexual orientation. We also consider that partner violence between same-sex couples should not be a taboo, but treated with the same concerns and adapted measures should be undertaken. Concerning the specific situation of LBQ women and trans* and intersex people, one should also consider “violence towards women” in a broader spectrum, since LBQ women and trans* and intersex people can experience various forms of discrimination and violence based on their sexual orientations, their gender expression and/or their gender identity.

- p. 38: The section about “Education” should take into account sexual and gender diversity. An intersectional approach to gender equality should be taken to give visibility to marginalised women’s voices. Bullying and violence towards LBQTI girls and teenagers in school settings should be analysed and addressed.

- p. 46: The section about “Health” doesn’t address any specific measure concerning the physical and emotional health and wellbeing of LBQ women. LBQ women still suffer from under-representation in health campaigns and still lack doctors, health centres and policies with knowledge about the needs of LBQ women.

- p. 47: The section about “Asylum”. Measures should be taken to assure the protection and bodily integrity of LBQ refugee women living in refugee camps and facing harassment and violence because of their sexual orientation and/or gender expression and/or gender identity.

⁴ « Communication au Comité pour l’élimination de la discrimination à l’égard des femmes (CEDAW) concernant la liste des points à traiter et questions concernant l’envoi combiné des sixième et septième rapports périodiques du Luxembourg »

⁵ « Regards sur la vie des femmes au Luxembourg », March 2018, STATEC : <http://www.statistiques.public.lu/catalogue-publications/regards/2016/PDF-05-2016.pdf>

⁶ « Plan d’égalité des femmes et des hommes 2015-2018 », MEGA : http://www.mega.public.lu/fr/publications/publications-ministere/2015/pan-egalite-2015/06244_Broch_Plan_Egalite_Femmes_Hommes_2015-2018_04-2015-Web.pdf

II. Ratification of the Istanbul Convention

The CEDAW Committee has recognised, on numerous occasions,⁷ the importance of the Council of Europe Convention on preventing and combating violence against women and domestic violence for the advancement of women's rights.

While Luxembourg was one of the 11 countries that signed the Convention in Istanbul in 2011, it has not ratified it yet.

However, a draft law on the ratification of the Istanbul Convention⁸ is being discussed now, and we would like to provide some comment in this regard.

- Rosa Lëtzebuerg-CIGALE has not been consulted for the conception of the draft law. Other NGOs with an agreement with the Ministry for Equal Opportunities have been consulted. Although our Home Ministry is the Ministry of Family, Integration and the Greater Region, we consider that our expertise should be taken into account when addressing gender equality issues.

⁷ See e.g.: Concluding Observations: Turkey (2016), CEDAW/C/TUR/CO/7, paras. 32—33; Concluding Observations: Ukraine (2017), CEDAW/C/UKR/CO/8, paras. 28—29.

⁸ Projet de Loi N°7167 et Dossier de Presse : <https://www.gouvernement.lu/7478333/Dossier-de-presse-Convention-d-Istanbul.pdf>

III. Other issues not addressed by the report submitted by the Government of Luxembourg

In this section, we are addressing: (1) the lack of LBQ components in the governmental policies and action plans; (2) gaps in data collection; (3) discrimination of female same-sex couples with regard to filiation; and (4) the situation of trans* and intersex persons (particularly, legal gender recognition).

Policies and Action Plans: Lack of LBQ components:

Since 2015, the Ministry of Family, Integration and the Greater Region of Luxembourg hosts an inter-departmental working group for LGBTI related issues which includes members of civil society, Ministries and the LGBTIQ organisations. The “Solidarity Section” of the Ministry is elaborating the first “National LGBTI Action Plan”, which should be published in 2018. The first draft doesn’t give enough information on whether lesbian, bisexual and queer (hereinafter – LBQ) women’s specific needs are addressed.

In July 2016 and July 2017, Rosa Lëtzebuerg-CIGALE submitted recommendations to the Ministry of Family, Integration and the Greater Region with an analysis of the lacks regarding LGBTIQ specific policies and/or the lack of the mainstreaming of LGBTIQ measures. This document identified lacks on every level of the governmental administrations and Ministries and made suggestions on the improvement and implementation of LGBTIQ-friendly policies.

Data collection & methodology:

In Luxembourg there is a big lack in the production of data concerning LGBTIQ people, and specifically LBQ women, and there is no systematic collection of data by the university, governmental institutions, research centres or NGOs. On the one hand, there is no specific research on LBQ women. On the other hand, when a general research is done on women, the dimension of sexual orientation and/or gender identity is not taken into consideration.

Still, we believe that there is a huge need for action to promote the respect, non-discrimination and visibility of LBQ women in Luxembourg⁹. The data used to produce the following recommendations is mostly data collected on a daily basis in our work and activism. The present report is based on individual and group discussions, on testimonies, and on participant’s feedback to small-scale surveys. It is as well based on the analysis of governmental and institutional documents, action plans, events and meetings with key people.

Family Equality: Discrimination of Female Same-Sex Couples in Filiation

Since January 2015, Luxembourg has legally established marriage equality and adoption for all couples, including “same-sex” couples. In 2017, an amended version of the draft law on “filiation” was presented. Despite our request to offer full recognition and protection to lesbian couples (married or being in civil union) who wish to have children via medically assisted procreation (MAP) through the automatic recognition of the second parent, the draft law still maintains inequalities between heterosexual and lesbian couples. Lesbian couples have to go through an adoption procedure, even when they are married (full adoption in Luxembourg only possible for married couples).

⁹ Statement by Rosa Lëtzebuerg-CIGALE for the International Day for the Elimination of Violence against Women, 25th of November : <https://www.facebook.com/CentreCIGALE/notes/>

«Projet de loi portant réforme du droit de la filiation – 6568A »

Concernant la reconnaissance automatique des couples lesbiens, l'amendement du projet de loi prévoit :

« L'assistance médicale à la procréation sera accessible aux couples de sexe opposé et aux couples de même sexe, qu'ils soient mariés, pacés ou vivant en concubinage. Il y a lieu de souligner également que l'assistance médicale à la procréation est ouverte aux femmes célibataires. La Commission juridique estime que la question de l'accès aux techniques de la procréation médicalement assistée constitue essentiellement un choix politique et qu'il est proposé de mettre en place une „PMA pour tous“. » (p.8/Projet de Loi)

L'accès à la PMA sera garanti, mais une différence de traitement persistera dans la reconnaissance légitime du parent non-biologique.

Chez les couples hétérosexuels non-mariés, le père, même s'il n'est pas le père biologique, est automatiquement reconnu comme parent s'il le souhaite :

« Action en recherche de paternité naturelle : La paternité hors mariage peut être judiciairement déclarée lorsqu'il est prouvé par tous moyens soit que le père prétendu a eu des relations sexuelles avec la mère de l'enfant pendant la période légale de conception, soit qu'il a avoué expressément ou tacitement être le père de l'enfant, notamment lorsqu'il a pourvu ou participé à son entretien et à son éducation en qualité de père. »
(source : <http://www.justice.public.lu/fr/famille/filiation/filiation-naturelle/reconnaissance/index.html>)

Chez les couples de lesbiennes, même mariées, la mère non-biologique doit faire une demande d'adoption :

« Ainsi est maintenu le principe selon lequel la présomption de paternité ne joue pas en faveur des couples mariés de même sexe.

La Commission juridique constate que certaines législations étrangères ont mis en place une présomption de co-parentalité. Aux yeux de la Commission juridique il n'est pas opportun d'étendre la présomption de paternité aux couples non mariés, ni d'introduire une présomption de la co-parenté à l'instar de la législation belge. »
(p.25/Projet de Loi)

The Situation of Trans* and Intersex Persons

Luxembourg still has no legislation for the recognition of the self-determination of trans* and intersex people. A draft law¹⁰ was presented on the 12th of May 2017 by the Ministry of Justice of Luxembourg in order to improve the rights and the lives of trans* and intersex people by guaranteeing a simple procedure for change of gender marker and name on the civil status certificates. The draft law is based on the self-determination of a person, and trans* people would not be required anymore either to present a certificate from a psychotherapist, or to undergo an irreversible gender reassignment surgery to be legitimate for legal gender recognition. This draft law, would it be voted, could be considered one of the most progressive laws in Europe concerning trans* rights, as well as intersex rights¹¹.

Concerning intersex people and the elimination of genital mutilation, the local association Intersex and Transgender Luxembourg (ITGL)¹² is doing lobby work at institutional level and discussions on a draft law are taking place.

¹⁰ <http://www.mj.public.lu/actualites/2017/05/Conference-de-presse-du-17-mai-2017/Projet-de-loi-relative-a-la-modification-de-la-mention-du-sexe.pdf>

¹¹ <http://www.mj.public.lu/actualites/2017/05/Conference-de-presse-du-17-mai-2017/Dossier-de-presse-trans-et-intersexe.pdf>

¹² <http://itgl.lu/oeffentlichkeitsarbeit/veroeffentlichungen/>

Suggested Recommendations

Rosa Lëtzebuerg-CIGALE recommends various points to improve the situation of LBQ women and trans* and intersex persons in Luxembourg.

- The Government of Luxembourg should collect and analyse information about the situation of LBQ women and trans* and intersex persons in the country, including on their specific needs and challenges.
- The Government of Luxembourg should offer the necessary resources for the creation of a permanent fully staffed office with financial resources and specialised people on LGBTIQ questions.
- The Ministry for Equal Opportunities of Luxembourg should include LBQ women and trans* and intersex persons into its actions and analysis, and should join the interministerial group for LGBTI issues.
- The Government and the Ministries of Luxembourg should adopt an intersectional point of view on their speciality topics to make sure that specific social demands and needs of LBQ women and trans* and intersex persons are addressed in a holistic way.
- Ministries of Luxembourg should integrate LGBTIQ-mainstreaming in their fields of action and create adequate action plans and evaluations on education, health, family, employment, prevention of violence, including domestic violence and hate crimes, asylum, as well as other spheres, including an analysis based on a feminist and queer perspective.
- The State Party should ensure ratification of the Istanbul Convention and should consult with LGBTIQ civil society organisations in that.
- The State Party should ensure that LBQ women in same-sex relations could realise their family rights on equal basis, and particularly to adopt a law that would provide mechanisms for the recognition of a child's second parent without adoption procedure.
- The State Party should adopt a draft law that would establish a progressive and based on self-determination, legal gender recognition procedure.
- The Government of Luxembourg should regularly consult LGBTIQ organisations and recognise the expertise of LBQ women as valid knowledge and knowhow (experts by experience).
- The Government of Luxembourg should provide more financial and human resources to grass-root LGBTIQ organisations, like Rosa Lëtzebuerg-CIGALE, in order to cover specific themes and do in-depth work for more vulnerable groups such as LBQ women, queer refugees, young LGBTIQ people, etc.